

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6504

Joint Petition of National Grid Group plc and       )  
New England Power Company for approval of       )  
intermediate holding company restructuring       )

Order entered: 6/6/2001

**I. INTRODUCTION**

This Docket concerns a joint petition filed by The National Grid Group plc ("National Grid") and New England Power Company ("NEP" or "New England Power") (collectively, the "Petitioners"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of the indirect acquisition of a controlling interest in NEP by new intermediate holding companies which will be indirectly owned by National Grid.

The Petitioners filed the Joint Petition ("Petition") on April 27, 2001, with prefiled testimony and supporting exhibits. On May 23, 2001, NEP and National Grid filed a draft Proposal for Decision ("Proposal for Decision"). On May 24, 2001, the Vermont Department of Public Service ("Department") filed a letter stating its belief that no hearing is necessary, and stating that it has no objection to the draft Proposal for Decision.

Based upon the absence of a request for hearing from any party, the lack of objection of any party to the draft Proposal for Decision, and my review of the draft Proposal for Decision and the record as a whole, I determined that an evidentiary hearing was not necessary.

Under Section 107, the Board may approve the direct or indirect acquisition of a controlling interest in a company subject to the jurisdiction of the Board only if it finds that such acquisition will promote the public good.

## **II. FINDINGS**

Based on the evidence of record, I hereby report the following findings to the Board in accordance with 30 V.S.A. § 8.

1. NEP is a Massachusetts corporation that owns and operates properties in Massachusetts, New Hampshire, Rhode Island, Connecticut, Maine and Vermont, including transmission lines. NEP owns properties in several Vermont communities used primarily for the transmission of electricity and has a 22.5% share of the common stock of Vermont Yankee Nuclear Power Corporation. Pet. at 1-2.

2. NEP is qualified to transact business in Vermont as a foreign corporation. NEP is a subsidiary of National Grid USA, a Delaware corporation and a registered holding company under the Public Utility Holding Company Act of 1935, as amended ("PUHCA"). Pet. at 2.

3. National Grid is a registered holding company under PUHCA, and is the ultimate corporate parent of NEP. National Grid indirectly acquired NEP as part of its merger with New England Electric System ("NEES"), approved by the Board in Docket No. 6225 by Order entered June 15, 1999. Subsequently, National Grid renamed the former NEES, National Grid USA. National Grid USA continues to operate as a distinct registered holding company and continues to be the direct parent of NEP. Pet. at 2; Carlton pf. at 2-3.

4. Currently, National Grid's corporate structure includes a number of intermediate holding companies interspersed between National Grid and National Grid USA. This corporate structure is typical for United Kingdom ("UK") cross-border transactions; according to the Petitioners, this corporate structure exists solely for the purpose of creating an economically efficient multinational corporate structure in light of both UK and U.S. tax laws and regulations. These intermediate holding companies are all directly or indirectly wholly owned by National Grid and no other party maintains any debt or equity interests in these corporations. Pet. at 2-3; Carlton pf. at 3.

5. According to NEP, in their current form, these intermediate companies have no effect on NEP's rates, terms, service or operation. According to NEP, periodically, minor technical changes may be necessary to this corporate structure to preserve the aforementioned economic efficiencies in light of changing laws and regulations. Pet. at 2-3; Carlton pf. at 3.

6. In light of U.S. tax regulation changes recently proposed by the Internal Revenue Service ("IRS"), National Grid needs to make certain modifications to its current intermediate holding company structure for National Grid USA in order to retain the structure's economic efficiency. NEP anticipates that these proposed tax regulation modifications will take effect on or about June 26, 2001. Pet. at 3; Carlton pf. at 4.

7. According to NEP, in order to retain the economic efficiencies associated with the current intermediate holding company structure for National Grid USA, National Grid must make several minor modifications to the current structure. These include replacing three of the existing intermediate holding companies currently registered in the UK or other European Union ("EU") nations with similar intermediate holding corporations also registered in either the UK or other EU nations, and establishing a new Delaware corporation as the immediate corporate parent of National Grid USA. Pet. at 3; Carlton pf. at 4.

8. Following the proposed restructuring, National Grid's revised intermediate holding company structure for National Grid USA will be virtually identical to the current structure. The revised intermediate holding company structure will continue to be wholly owned, either directly or indirectly, by National Grid and no other party will maintain any debt or equity interests in any of the intermediate holding companies. Pet. at 3-4; Carlton pf. at 4-5.

9. The restructuring implements a series of technical changes involving essentially similar holding company corporations that results in a technical change in control of National Grid USA and its subsidiary, NEP. Before and after the proposed restructuring, National Grid will continue to be the ultimate corporate parent of National Grid USA and its subsidiaries, and National Grid USA's ownership of NEP will remain unchanged. This proposed restructuring is not associated with any acquisition or merger of National Grid with any other third party or corporate entity. Pet. at 4; Carlton pf. at 5.

10. The restructuring will not have any impact on NEP's managerial and financial structure, operations, or rates. Pet. at 4; Carlton pf. at 5, 6.

11. Following the restructuring, NEP will remain a separate corporation wholly-owned by National Grid USA and will continue to own and conduct a public service business subject to the

jurisdiction of the Board. NEP will also retain its ownership interest in Vermont Yankee. Pet. at 4-5; Carlton pf. at 5, 6.

12. The proposed restructuring will have no effect on the Board's future jurisdiction over NEP. The proposed restructuring will also have no impact on the arrangements with, and obligations of NEP to, its two end use customers in Vermont, American Paper (formerly Simpson Paper), and the Island Corporation. The restructuring solely involves an indirect technical change of control of National Grid USA, the direct corporate parent of NEP, and will have no impact on NEP operations in Vermont. Carlton pf. at 5, 6.

### **III. DISCUSSION AND CONCLUSION**

Under 30 V.S.A. § 107(a), "[n]o company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the [Board] . . . without the approval of the [Board]." "Controlling interest" is defined as "ten percent or more of the outstanding voting securities of a company" or such other interest as the Board determines "to constitute the means to direct or cause the direction of the management or policies of a company." 30 V.S.A. § 107(e)(1). In order to approve the acquisition of such a controlling interest, the Board must first find that it will "promote the public good." 30 V.S.A. § 107(b).

I have reviewed the evidence of record and find that the proposed indirect acquisition of a controlling interest in NEP by new intermediate holding companies, which will be indirectly owned by National Grid, will promote the public good of the State of Vermont. I thus recommend that the Board approve the transfer of control of NEP pursuant to the proposed restructuring transaction.

All parties to this proceeding have waived their rights to comment on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 6<sup>th</sup> day of June, 2001.

s/Kurt Janson

Kurt Janson  
Hearing Officer

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and conclusions of the Hearing Officer are adopted.
2. The Joint Petition of The National Grid Group plc and New England Power Company for the indirect acquisition of control of New England Power Company by new intermediate holding companies, which will be indirectly owned by The National Grid Group plc, is approved.
3. The Petitioners shall file a letter notifying the Board of the date of completion of the restructuring within ten days following completion thereof.

Dated at Montpelier, Vermont, this 6<sup>th</sup> day of June, 2001.

<u>s/Michael H. Dworkin</u>	)	PUBLIC SERVICE
	)	
	)	BOARD
<u>s/David C. Coen</u>	)	
	)	OF VERMONT
	)	
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: June 6, 2001

ATTEST: s/Susan M. Hudson

Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*